

REMARKS

The Examiner's objection to claim 5 under 37 C.F.R. 1.75(c) as being in improper form because multiple dependent claim 5 should refer to other claims in the alternative only is respectfully traversed. Applicant has amended claims 2, 3 4 and 5 to provide the proper form for dependency.

The Examiner's rejection of claims 1-9 and 10-15 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter for which applicant regards as the invention is respectfully traversed. In claim 1, applicant has amended the claim to recite "said video." In claim 2, applicant has amended claim 2, line 6, to "said CPU."

In claim 2, applicant has amended the word "use" to read "user" in line 15. In line 6, applicant has amended "CPU" and "GPS" recited in lines 2-3 to read "said CPU" and "said GPS." In claim 6, applicant has amended "a cellular phone" recited in line 13 and in line 5 to read "said cellular phone."

Regarding claims 3, 4, 5 and 7-9, the remaining claims (dependent claims 3-5 & 7-9) depend from a rejected base claim (independent claims 1, 2 and 6) and heretofore inherited the deficiencies thereof which have been corrected.

Claim 10 has been amended in line 15 to recite "said communication network." Claim 10 has been amended in line 19 to recite "said display screen." Claim 10 has been amended in line 15 to recite "said cellular phone." Claim 14 has been amended in line 3 to recite "a PDA display screen." Also, the phrase "a PDA display screen" recited in claim 5 has been changed to "the PDA display screen."

The Examiner's rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over

Muramatsu '377 in view of Gorday, et al., et al. '331 (U.S. Publication 2004/0192331A1) and Bostrom '456 (U.S. Publication 02664546A1) is respectfully traversed. Muramatsu '377 discloses a navigation system that uses a portable communication device in conjunction with a navigation server for providing a prescribed navigation service online. Under Graham v. John Deere Company, 383 U.S. Page 1, 48 U.S.P.Q. 459 (1966), the Supreme Court established standard guidelines for assessing patentability. For a rejection under 35 U.S.C. 103, the Court defined several basic factual inquiries such as: (1) the scope and content of the prior art are to be determined; (2) differences between the prior art and the claims at issue are to be ascertained; and (3) the level of ordinary skill in the pertinent art resolved.

The scope and content of Muramatsu '377 suggest that the overall system is primarily for navigation purposes. The system uses a portable communication device that includes GPS in conjunction with a navigation server that provides map information including destination and present position based on corresponding icon symbols. The system also provides azimuth as an angle departing from north direction for map information. Gorday, et al., et al. '331 discloses a method for sending messages from a particular device to one or more other devices that communicants use using the relative geographic location of the targeted devices as addressing criteria. The use of a stylus in Gorday, et al., et al. is not to make a call such as a voice telephone call but rather to select one of the communicant PDA devices to target for message communication.

The user employs the stylus or other input mechanism to select via the touch screen the targeted device in order to initiate communications. Neither Muramatsu nor Gorday, et al. provides for voice communication, free and operator selected text messages, photographs or video communications between the user and the selected icon. Bostrom, et al. discloses a node in a telecommunication network that supports location and direction services suited for wireless subscribers. The system is a navigational system to provide location services using a server.

Primarily the user marks specific locations (not calling locations) based on symbols that are pre-entered into a database. No mention is made concerning transmitting and receiving voice communication, free and operator selected text messages, photographs, and video between other system users.

It is apparent that the scope and content of the prior art cited by the Examiner are quite different than the invention recited in applicant's amended claims. Applicant's amended claims recite a communication system that provides for rapid connection to other participants in the communication network represented by symbols on a geographical screen that allows for rapid voice communication, rapid free text communication and the rapid transmission of photographs and video clips using the stylus and touch screen. There is no teaching or suggestion in any of the references cited by the Examiner to arrive at applicant's claimed invention. It is applicant's position that the problem being solved by applicant's invention for rapid voice, text and video communications in a communication network has not been addressed in the references cited by the Examiner. Even if the references were combined as suggested by the Examiner, it is believed that applicant's claimed invention would not result inasmuch as there is no disclosure in any of the references to suggest applicant's claimed voice, text, photographs and video communications with the recipients as recited in applicant's claims. Because of the large differences between the prior art cited by the Examiner and the claims amended by applicant, the references teach away or suggest away from applicant's invention such that one of ordinary skill in the art when reviewing all of the references together would clearly not arrive at applicant's claimed invention. This is especially true since applicant's claimed invention is addressing and solving a different communication problem than the communication problems addressed in each of the references cited when taken together. There must be something in the prior art as a whole to suggest the desirability and, thus, the obviousness of making the combination. C.P.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 48

U.S.P.Q.2d 1225 (Fed. Cir. 1998). Claim 2 as amended is believed patentable over the art cited by the Examiner.

The Examiner's rejection of claims 3 and 4 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331 and Bostrom '456 as discussed above and further in view of Bala '475 (U.S. 5,542,475) is respectfully traversed.

Applicant herein reasserts the arguments made above with respect to the Muramatsu '377 reference, the Gorday, et al. '331 reference and the Bostrom '456 reference. Using the same Supreme Court test under the Graham case cited above, it is asserted that Bala when combined with the other three references do not suggest to one of ordinary skill in the art applicant's claimed invention as recited in claims 3 and 4. Since claims 3 and 4 depend from claim 2, the scope and content of Bala combined with the other references do not teach or suggest applicant's claimed invention in claim 2. The addition of the conference calling features claimed by applicant in claims 3 and 4 in combination with the system claimed in claim 2 recites a combination of elements not taught or suggested when viewed together with the references cited by the Examiner. Bala teaches using a computer and data link to remote the functions of a PBX telephone system. Bala does not teach using a cell phone to set up nets that are local to that cell phone and only that cell phone. There is no motivation to combine the references as suggested by the Examiner.

The Examiner's rejection of claim 6 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331 is respectfully traversed. Again, applicant reiterates the arguments presented above with respect to the combination of the Muramatsu '377 reference with the Gorday, et al. '331 reference urged by the Examiner with reference to claim 2. Muramatsu '377 reference discloses a navigational system that uses a navigational server to provide navigational information to users requesting such information in a given area. Muramatsu '377 does not suggest providing a network of users that establish rapid voice communication, free text

message communication, photographs communication and video information using a geographical display with icons that are tied into the cell phone number database for rapid communication purposes. Gorday, et al. '331 reference is also primarily a navigation system that allows sending a pre-prepared message to one of the other participants in an *ad hoc* network within a certain distance or with other criteria. Gorday does not suggest nor teach having a network that allows for rapid voice communication, free and operator selected text message communication, photographs and video being transferred rapidly using a geographical display and icons that have pre-existing cell phone numbers for rapid communication. The Graham test of scope and content of the prior art again applies to the Examiner's rejection of claim 6. Claim 6 requires a method and system that can rapidly be used to establish voice communication, free text message communication, photograph and video information to one or more selected participants in a rapid manner. The differences between claim 6 and the systems and methods disclosed in Muramatsu '377 and Gorday, et al. '331 are significant. The system and method in Muramatsu '377 and Gorday, et al. '331 relate to navigational devices that seek to solve different problems than the device claimed in claim 6.

The Examiner's rejection of claims 7 and 8 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331 as discussed and further in view of Bala '475 is respectfully traversed.

Applicant reiterates applicant's assertions and comments above concerning the Muramatsu '377 reference and the Gorday, et al. '331 reference. Again, the Bala '475 reference discusses certain conference capabilities that are, however, not suggested nor disclosed in the combination of Muramatsu '377 and Gorday, et al. '331. Therefore, the addition of the Bala '475 reference by the Examiner reviewing the test of obviousness required under the Graham case, the Examiner's combination of references do not suggest or teach applicant's invention in claims 7 and 8 which are

dependent from claim 6. There are fundamental differences in the problems being solved and in the structure and function of applicant's claimed invention in claims 7 and 8 that would not suggest to one of ordinary skill in the art the claimed invention.

The Examiner's rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331, Godfrey '634 and Ausems '321 is respectfully traversed. Applicant reiterates applicant's comments with respect to the Muramatsu '377 reference and the Gorday, et al. '331 reference recited above with respect to claim 1 and claim 6. Under the test of obviousness put forth in the Graham case when looking at the scope and content of the prior art and the differences in the claimed subject matter such as in claim 10 and the combination of references cited by the Examiner, the differences in the claimed subject matter are quite extensive. Again, the problems to be solved are completely different in Muramatsu and Gorday, et al. than the problems solved by applicant's claimed invention especially in claim 10. Godfrey uses 802.11 wireless for position determination and does not discuss polling with a system capable of transmitting and receiving voice communication, free and operator selected text messages, photographs, and video. The Godfrey '634 and Ausems '321 references do not cure the defects found in the other references cited by the Examiner when viewing the overall combination of references. A person of ordinary skill in the art when viewing all of these references, five cited by the Examiner, would not and could not arrive at applicant's claimed invention because the problems are different, the structure and function of elements provided in the combination of references are different with a different invention resulting.

The Examiner's rejection of claims 11 and 12 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331, Godfrey '634 and Ausems '321 further in view of Bala '475 is respectfully traversed. Claims 11 and 12 depend from claim 10 and applicant herein reiterates the comments made above with respect to the references cited in combination by

the Examiner with respect to claims 11 and 12. The teaching in Bala '475 relating to conference calling with the variety of participants is completely different in subject matter than that claimed by applicant in claims 11 and 12 which depend from claim 10. Under the Graham test, the scope and content of the prior art are quite different as to the problems being solved and the structure being used than that specifically claimed by applicant in claims 11 and 12 which include voice, text and video messaging to a number of participants in a rapid manner. It is applicant's position that one of ordinary skill in the art when viewing all of these references grouped together by the Examiner could not possibly arrive at applicant's claimed invention because of the lack of teaching or suggestions in these references to arrive at the claimed invention.

The Examiner's rejection of claim 13 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331, Ausems '321, Godfrey '634 and further in view of Tendler '286 is respectfully traversed. Claim 13 specifically requires a communication network that includes voice communication, text messages and a geographical screen for rapidly summoning one or more other participants in the communication network. Applicant reiterates applicant's comments and arguments above with respect to the references cited above. Tendler does not disclose nor cure the problem of actual voice communications in combination with the icons presented by applicant for voice communication, free and operator selected text messaging, photographs and video transmission to participants. The purpose of the Tendler invention is to provide an emergency button that transmits a partially pre-canned voice message with the addition of other voice information indicating the location of an emergency. Thus, the problem and the solution provided by Tendler is completely different than applicant's claimed invention in claim 13 especially when considered in combination with the other references which would not be obvious to

one of ordinary skill in the art.

The Examiner's rejection of claim 14 under 35 U.S.C. 103(a) as unpatentable over Muramatsu '377 in view of Gorday, et al. '331, Ausems '321, Godfrey '634, Bala '475 and further in view of Fumarolo '844 is respectfully traversed. Applicant reasserts the comments and arguments presented above with respect to all of these references except Fumarolo '844. The Examiner states that the references can be combined by incorporating the user input device of a touch screen portion of the GUI disclosed in column 4, lines 59 plus of Fumarolo '844 in selecting a communication unit to be dynamically regrouped as well as targeting talk groups as taught by Fumarolo '844 so that it would allow a user of a display based terminal having an integrated mapping problem to dynamically group and ungroup communications. The error in this combination is that the basic references Muramatsu '377 and Gorday, et al. '331 lack any teaching or suggestion to provide the invention claimed by applicant in claim 14. Looking at the scope and content of the prior art taken as a whole, applicant's claimed invention 14 is quite different in the problems being overcome and the functional result provided by applicant. With respect to the scope and content of the Fumarolo '844 reference, a system where each police car has a GPS and a cell phone is used in combination with a central office that sees all of the users. Each of the cars do not see the other cars. The system is also set up with talk group nets with different nets being set up by central office. This is a completely different structure and function than applicant's claimed invention. Fumarolo is based on using both a computer assisted dispatch (CAD) system that controls radios and an automatic vehicle location system. The CAD system resides on a central computer. The applicant's claimed invention is the control of a cell phone hand set and enabling

the hand set to more efficiently use its existing conference capabilities. Applicant's communication network provides for a rapid communication using voice communication, text messages, photographs and video that can be transferred extremely quickly among one or more participants of a communication network using a geographical display with icons as required in applicant's claimed invention in claim 14. The references taken as a whole do not teach or suggest applicant's claimed invention to one of ordinary skill in the art.

The Examiner's rejection of claim 15 under 35 U.S.C. 103(a) as being unpatentable over Muramatsu '377 in view of Gorday, et al. '331, Ausems '321, Godfrey '634, Bala '475, Fumarolo '844 and further in view of King '560 (U.S. 6,775,560) is respectfully traversed. King '560 discusses use of soft switches, the activation of which causes lists of selections to appear from which the operator makes a particular selection. The applicant's claimed invention causes a matrix of layered software drawn switches so that each switch that when activated on the touch display screen overlays the previously drawn matrix of switches, the matrix level of which is noted in one of the switch locations, thus providing the operator a large choice of switches in the same physical space on the touch display screen and informing the operator of the level of switches that are displayed. The set of layered software drawn switches disclosed in King '560 do not suggest nor teach the other deficiencies stated above with respect to all the comments applicant has provided to the numerous references cited by the Examiner above. Under the Graham test, the scope and content of the prior art, when taken together, should suggest to one of ordinary skill in the art the claimed invention. As described above, the fundamental references do not teach or suggest applicant's basic invention which is quite different than the one disclosed in Muramatsu '377 and

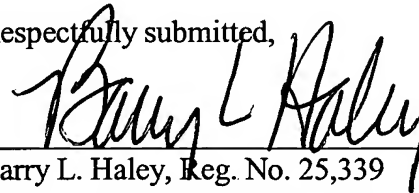
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Gorday, et al. '331. No matter how many references the Examiner adds together, the combination of references do not teach or suggest applicant's claimed invention as stated in claim 15. Therefore, it is believed that claim 15 is allowable over all of these references cited.

It is noted that claims 1, 5 and 9 would be allowed if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph. Applicant has made the necessary amendments to the claims and asserts that claims 1, 5 and 9 are now allowable.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry L. Haley", is written over a horizontal line.

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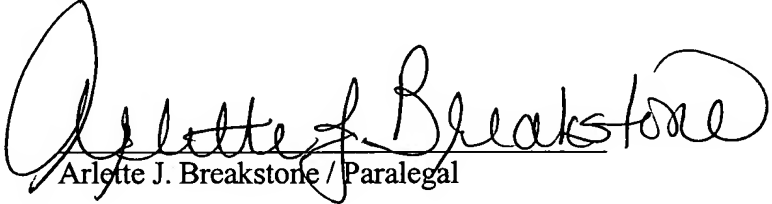
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I HEREBY CERTIFY that the following correspondence: Amendment Transmittal Letter (in Duplicate); Amendment; and a Return Postcard for confirmation of receipt, is being deposited with the United States Postal Service as Express Mail No. EV 720779213 US, addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450 on this 8th day of November, 2005.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

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Arlette J. Breakstone / Paralegal

Date: November 8, 2005

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